THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 5789 of 2007

26-03-2007

Between:-

M. Rajender Kumar and eight (8) others.

Petitioners

And

The State Government of Andhra Pradesh,
Rep., by its Secretary, Municipal Administration and Urban Development, Secretariat, Hyderabad and three others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 5789 of 2007

Oral order:

Challenge is to the notification dated 26-02-2007 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act) by the fourth respondent proposing acquisition of the lands specified therein for widening of the road from Vishweshvaraiah Statue to Santh Nirankari Bhavan, Hyderabad. Declaration under Section 6 of the Act has also been issued on 26-02-2007. In the notification issued under Section 4 (1) of the Act, the fourth respondent invokes the urgency clause under Section 17 (4) of the Act and dispenses with the salutary provision of enquiry under Section 5A of the Act.

Widening of the road would not have been an over

night decision, as it involves identification and deployment of funds for acquisition purposes, apart from the planning process involving the need to widen the road and the extent of widening that is required.

In the totality of the circumstances, this Court is unable to discern any justification for dispensing with the salutary process of enquiry under Section 5A of the Act. This Court holds that the invocation of urgency clause under Section 17 (4) of the Act is irrational. Accordingly the declaration dated 26-02-2007 issued under Section 6 of the Act is quashed as is the notice dated 05-03-2007 issued under Section 9(3) and 10 of the Act.

The fourth respondent shall now issue a notice soliciting objections from the petitioners under Section 5A of the Act and on considering the objections to be lodged, within the time stipulated in the notice, shall consider the objections and take an appropriate decision under Section 5A (2) of the Act, which decision shall be communicated to each of the petitioners by registered post and acknowledgement due. Only thereafter and if warranted by the decision taken under Section 5A (2) of the Act, the fourth respondent shall proceed with further process of acquisition. The petitioners shall not be dispossessed meanwhile.

The writ petition is allowed, as above at the stage of admission after hearing the learned Government Pleader for Municipal Administration, learned Government

Pleader for Land Acquisition and Sri R. Ramchandra Reddy learned standing counsel for Municipal Corporation of Hyderabad. No costs.

GODA RAGHURAM, J

Dated:26-03-2007
Pvks/*

Nb:- Furnish c.c. in two days.
B/0 pvks/*